

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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AE SQUARE ONE, INC., ALLEN PENIAS, and  
BETTY PENIAS

Plaintiffs,

**ORDER**

-against-

**07 CV 133 (RJD)**

FAMILY DOLLAR STORES, INC., FAMILY,  
FAMILY DOLLAR, INC., and FAMILY  
DOLLAR SERVICES, INC.

Defendants.

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DEARIE, Chief Judge.

Plaintiffs bring suit against defendants alleging breach of contract and unfair trade practices. This case is the second of three lawsuits in three separate districts arising from business conducted amongst Family Dollar, Christian Casey, LLC ("Christian Casey"), Sean Jean Clothing, Inc. ("Sean Jean"), AE Square One, Inc. ("AE Square") and OOC Apparel, Inc. ("OOO") in or around August of 2005. The first of these suits was initiated by Family Dollar and resulted in a default judgement against AE Square. Family Dollar Stores, Inc. v. Christian Casey, 3:06-CV-00377 (W.D.N.C. July 25, 2007); Def.'s Mem. in Supp. of Mot. to Dismiss, Ex. 5.

After conducting a pre-motion conference on May 14, 2007, this Court issued a briefing schedule requesting that defendant's motion be submitted by August 13, plaintiff's response papers by September 13, and defendant's reply papers by September 27, 2007. Family Dollar submitted its motion to dismiss, or in the alternative, to transfer this case pursuant to the above mentioned schedule. Despite repeated telephone requests by the Court to plaintiff's counsel, no response was forthcoming. Then, on January 8, 2008, the Court issued an order directing

plaintiff to file a response to defendant's motion by January 28. On January 29, plaintiff requested an extension until January 31, which the Court granted. Despite the reassurances provided by plaintiff's counsel in that letter, as of the date of this order plaintiff has failed to respond to defendant's motion.

The Court's patience is not infinite. For the reasons stated in defendant's memorandum in support of its motion to dismiss, defendant's motion is hereby granted on res judicata grounds and the complaint is dismissed with prejudice.

SO ORDERED.

Dated: Brooklyn, New York  
February 5, 2008

s/ Judge Raymond J. Dearie  
RAYMOND J. DEARIE  
United States District Judge